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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,700	07/02/2003	William Kress Bodin	AUS920030244US1	5879
34533 7590 06/23/2009 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER				
MURRAY, DANIEL C				
ART UNIT		PAPER NUMBER		
2443				
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06/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/612,700

Applicant(s)

BODIN ET AL.

Examiner

DANIEL C. MURRAY

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on 24MAR2009. **Claims 1-21** are now pending in the present application. **This Action is made FINAL.**

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made

in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over by **Phipps (US Patent # US 6,579,231 B1)** in view of **Cheng (International Publication # WO 00/39964)**.

a) Consider **claim 1, 8, and 15**, Phipps clearly shows and discloses, a method, system, and computer program product for administering devices (abstract, column 1 lines 8-17, column 2 lines 22-28), the method comprising: a recording medium (figure 3, column 4 lines 6-9, column 6 lines 3-6); creating, in a first domain, a domain state object (subject/record)(figure 4, abstract, column 2 lines 29-34, column 3 lines 32-39), the first domain including a plurality of network-connected devices (column 3 lines 32-39, column 4 lines 6-19 lines 63-67, column 5 lines 1-11 lines 41-52, column 7 lines 61-65, column 8 lines 21-29), the domain state object including information that describes the state of the devices in the first domain and specifies a user in the first domain (figure 4, abstract, column 2 lines 29-34, column 3 lines 32-39, column 4 lines 63-67, column 5 lines 1-11, column 6 lines 49-64), the devices in the first domain having been altered in response to the physical condition of the user in the first domain (column 5 lines 12-20, column 8 lines 21-29); and transmitting the domain state object from the first domain to a second domain, a plurality of network-connected devices (figure 1, abstract, column 2 lines 34-40, column 3 lines 32-43 lines 66-67, column 4 lines 1-5 lines 45-52). However, Phipps does not specifically disclose a first networked environment including a plurality of network-connected devices, a second domain comprising a second networked environment including a plurality of network connected devices, or at least one of the devices in the second domain administered to alter the user's environment in the second domain in dependence upon the information describing the state of the devices in the first domain.

Cheng shows and discloses automated home control systems, wherein Cheng discloses a first networked environment including a plurality of network-connected devices (abstract, page 4 lines 19-34, page 5 lines 1-17, page 9 lines 14-20), a second domain comprising a second networked environment including a plurality of network connected devices (abstract, page 4 lines 19-34, page 5 lines 1-17, page 9 lines 14-20), at least one of the devices in the second domain administered to alter the user's environment in the second domain in dependence upon the information describing the state of the devices in the first domain (prior actions)(abstract, page 2 lines 29-34, page 3 lines 1-6, page 4 lines 19-34, page 5 lines 1-17).

Therefore, it would have been obvious to one of ordinary skill in the art that the time the invention was made to incorporate alter the user's environment in the second domain in dependence upon the information describing the state of the devices in the first domain, as taught by, Cheng into the system of Phipps for the purpose of analyzing/altering a user's analysis/treatment profile in a second domain based on data gathered by the medical device in the first domain.

b) Consider **claim 2, 9, and 16**, and **as applied to claim 1, 8, and 15 above**, Phipps as modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 1, 8, and 15 wherein creating, in a first domain, a domain state object comprises: creating a current device state object (66 device ID)(figure 4, column 6 lines 49-56); and associating the current device state object with the domain state object (each device is mapped to a particular subject)(figure 4, column 4 lines 45-52, column 6 lines 49-56).

c) Consider **claim 3, 10, and 17**, and **as applied to claim 2 above**, Phipps modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 2, 9, and 16 wherein creating a current device state object comprises: identifying a device in the first domain (figure 4, column 6 lines 49-56); getting a current value of an attribute of the device (figure

4, abstract, column 2 lines 29-34, column 3 lines 58-64, column 4 lines 6-9); and storing the value in the current device state object (figure 2, figure 3, figure 4, abstract column 2 lines 29-34, column 4 lines 6-9).

d) Consider **claim 4, 11, and 18**, and **as applied to claim 1, 8, and 15 above**, Phipps modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 1, 8, and 15 wherein creating, in a first domain, a domain state object comprises associating a user metric vector with the domain state object (the type of physiological data that is collected and stored in the subject's profile e.g. heart rate, blood pressure, body temp, etc.)(figure 4, abstract, column 1 lines 8-17 lines 58-64, column 2 lines 16-19, column 6 lines 49-56).

e) Consider **claim 5, 12, and 19**, and **as applied to claim 1, 8, and 15 above**, Phipps modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 1, 8, and 15 wherein creating in a first domain, a domain state object comprises associating a user metric space (70 thresholds) with the domain state object (figure 4, abstract, column 2 lines 41-49, column 7 lines 22-32).

f) Consider **claim 6, 13, and 20**, and **as applied to claim 1, 8, and 15 above**, Phipps modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 1, 8, and 15 wherein transmitting the domain state object from the first domain to a second domain comprises downloading the domain state object to a mobile sensor (figure 1, abstract, column 3 lines 66-67, column 4 lines 1-5).

g) Consider **claim 7, 14, and 21**, and **as applied to claim 1, 8, and 15 above**, Phipps modified by Cheng clearly show and disclose, the method, system, and computer program product of claim 1, 8, and 15 wherein transmitting the domain state object from the first domain to a second

domain comprises downloading an address of the domain state object to a mobile sensor (column 3 lines 66-67, column 4 lines 1-5).

Response to Arguments

6. Applicant's arguments filed 24MAR2009 have been fully considered but they are not persuasive.

Applicant argues that “[t]he combination of Phipps and Cheng does not teach or suggest transmitting the domain state object from the first domain to a second domain.”

The Examiner respectfully disagrees; in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The combination of Phipps and Cheng clearly disclose the claimed invention.

Phipps clearly discloses a portable unit gathering data about a subject in one domain and sending it to a second domain (abstract, column 2 lines 29-34, column 3 lines 32-43). Phipps clearly discloses a portable unit worn by a subject, comprising a monitoring device, a data processing module with memory and transmitter for collecting, monitoring, and storing the subject's physiological data which also works in conjunction with a central reporting system for long term collection and storage of the subject's physiological data. Phipps clearly discloses gathering information in one domain (the user's location) and sending it to a second domain (a central reporting system).

Cheng clearly discloses a first networked environment including a plurality of network-connected devices (abstract, page 4 lines 19-34, page 5 lines 1-17, page 9 lines 14-20), a second

domain comprising a second networked environment including a plurality of network connected devices (abstract, page 4 lines 19-34, page 5 lines 1-17, page 9 lines 14-20), at least one of the devices in the second domain administered to alter the user's environment in the second domain in dependence upon the information describing the state of the devices in the first domain (prior actions)(abstract, page 2 lines 29-34, page 3 lines 1-6, page 4 lines 19-34, page 5 lines 1-17). Cheng clearly discloses a user moving from one area (domain) containing a plurality of network-connected devices to a second area (domain) containing a plurality of network-connected devices and that the user's environment is optimized (altered) in response to user preferences and experiences (page 9 lines 15-16). The user's environment (i.e. area, domain, etc.) is altered (i.e. devices activated and adjusted, lights activated, etc.) when the user enters the area (domain) based on user preference and experiences (prior actions) either in that area (domain) or another.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Cheng and Phipps since both concern a portable unit which gathers data with regard to a particular user and as such, both are with in the same environment.

The combination of Phipps and Cheng clearly teach gathering information about a user and the preferences and experiences of a user in multiple areas (domains) and using that those preferences and experiences to alter the user's environment in another area (domain).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

➤ US 2003/0191650 A1	➤ US 7,046,263 B1	➤ 5,611,050
➤ US 7,366,498 B2	➤ US 6,801,223 B1	➤ 5,991,687
➤ US 7,496,627 B2	➤ US 6,812,937 B1	➤ 6,108,197
➤ 5,544,321	➤ 5,555,376	➤ US 6,571,279 B1
➤ US 6,466,232 B1	➤ 5,603,054	➤ US 7,395,507 B2

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL C. MURRAY whose telephone number is 571-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571)-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like

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assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DCM/

Examiner, Art Unit 2443

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443